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INTERIM REPORT

Prepared by the Tribunal

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I. INTRODUCTION

1. This interim report is presented to inform the States Parties of developments with respect to the International Tribunal for the Law of the Sea since the election of the judges on 1 August 1996. It is not intended to replace the annual report of the Tribunal to be submitted under article 6, paragraph 3 (d) of the rules of procedure of the Meetings of States Parties. The annual report will cover the calendar year. The first report will cover the period from October 1996 to December 1997. It will be submitted to the Meeting of States Parties in 1998.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea. The Tribunal functions in accordance with Part XI, section 5, of the Convention, Part XV of the Convention, and the Statute of the Tribunal as contained in Annex VI to the Convention.

II. ELECTION OF THE JUDGES

3. The 21 Judges were elected by the Meeting of States Parties on 1 August 1996, from among candidates nominated by the States Parties.[1] The Judges elected, in alphabetical order, are:

Name	Country	Date of expiry of term of office
Joseph Akl	Lebanon	1 October 1999
David Anderson	United Kingdom	1 October 2005
Paul Bamela Engo	Cameroon	1 October 1999
Hugo Caminos	Argentina	1 October 2002
Gudmundur Eiriksson	Iceland	1 October 2002
Anatoly Lazarevich Kolodkin	Russian Federation	1 October 1999
Edward Arthur Laing	Belize	1 October 2002
Vicente Marotta Rangel	Brazil	1 October 1999
Mohamed Mouldi Marsit	Tunisia	1 October 2005
Thomas A. Mensah	Ghana	1 October 2005
Tafsir Malick Ndiaye	Senegal	1 October 2002
L. Dolliver M. Nelson	Grenada	1 October 2005
Choon-Ho Park	Republic of Korea	1 October 2005

Name	Country	Date of expiry of term of office
P. Chandrasekhara Rao	India	1 October 1999
Tullio Treves	Italy	1 October 2002
Budislav Vukas	Croatia	1 October 2005
Joseph Sinde Warioba	United Republic of Tanzania	1 October 1999
Rüdiger Wolfrum	Germany	1 October 1999
Soji Yamamoto	Japan	1 October 2005
Alexander Yankov	Bulgaria	1 October 2002
Lihai Zhao	China	1 October 2002

III. FORMATIVE PERIOD

4. The Tribunal's formative period took place from 1 August to the end of its first (organizational) session. The Meeting of States Parties decided that during this period, there should be an interim Registry charged with making arrangements for the transition from the services of the United Nations Secretariat to the Registry of the Tribunal.[2] Among the measures taken by the United Nations Secretariat to enable this transition was the assignment and loan of staff from the United Nations Secretariat. The Secretary-General of the United Nations assigned Mr. Gritakumar E. Chitty as Director-in-Charge of the Registry pending the election of the Registrar.

5. The Third United Nations Conference on the Law of the Sea decided that the seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.[3] On 18 October 1996, the Secretary-General of the United Nations and other high dignitaries participated in the ceremony to lay the foundation stone for the future Tribunal premises at the site on the Elbchaussee at Nienstedten in Hamburg overlooking the river Elbe. The future facility is scheduled to be ready at the end of 1999.

6. Pending completion of the future premises, the German authorities provided the Tribunal with a temporary building situated at Wexstrasse in the centre of Hamburg. The choice of this facility, an independent and secure building of moderate size, was determined in consultations between the United Nations and the German authorities. The location and the availability of two large halls, providing space for an interim courtroom and a library and adjoining archives, favoured the choice of this building.

IV. RELATIONS WITH THE HOST COUNTRY

7. As will be the case with the future premises, the temporary accommodation is provided and furnished by the host country. The Tribunal wishes to express appreciation to the Federal German Government and the City of Hamburg for the facilities which have been made available for its work. The Tribunal extends its gratitude to the relevant authorities for their continued assistance and cooperation.

V. INAUGURATION OF THE TRIBUNAL

8. The Tribunal held its first session from 1 to 31 October 1996 at its seat in Hamburg. Mr. Hans Corell, the Legal Counsel of the United Nations, presided over the meetings until the election of the President.

9. During the first session the Tribunal held its first public sitting in conjunction with the ceremony of its formal inauguration. At the public sitting the Judges made the solemn declaration prescribed by article 11 of the Statute.

10. The ceremony of inauguration took place in the City Hall of Hamburg. It was conducted by Mr. Corell assisted by Mr. Chitty. The ceremony was attended by high dignitaries including the Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali; the Foreign Minister of the Federal Republic of Germany, Mr. Klaus Kinkel; and the First Mayor of Hamburg, Mr. Henning Voscherau. Also present were the President of the Meeting of States Parties, Mr. Satya Nandan, who was also Secretary General of the International Seabed Authority; the President of the Assembly of the Authority, Mr. Hasjim Djalal; and the President of the Council of the Authority, Mr. Lennox Ballah. The International Court of Justice was represented by Judge Carl August Fleischhauer and Mr. Eduardo Valencia-Ospina, Registrar of the Court. An audience of nearly 600 others, comprising representatives from over 67 countries and specially invited guests, also witnessed the event.

VI. ELECTION OF OFFICERS

A. The Judiciary

11. On 5 October 1996, the Judges elected Judge Mensah as President. Judge Wolfrum was elected Vice-President. The President and Vice-President are both to serve for a term of three years.

B. The Registry

12. The Registrar is elected for a term of seven years among candidates proposed by the Members of the Tribunal. On 21 October 1996, the Judges elected Mr. Chitty as Registrar.

13. On 25 October 1996, the Tribunal elected Mr. Philippe Gautier as Deputy Registrar for a term of seven years.

VII. WORK OF THE TRIBUNAL

A. Sessions

14. The Tribunal convened for its second session from 3 to 28 February 1997, and its third session was held from 2 to 29 April 1997. The fourth session is planned to be held from 6 to 31 October 1997.

B. Rules of the Tribunal

15. At its first session, the Tribunal began the consideration of its Rules. The Tribunal based its consideration of the Rules on the final draft Rules of the Tribunal[4] prepared by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea and recommended to the Tribunal by the Meeting of States Parties.

16. The Tribunal provisionally adopted the Rules needed to constitute the Chamber of Summary Procedure and those necessary for the election of the President, the Vice-President, the Registrar and the Deputy Registrar. It reviewed the draft Rules presented by the Preparatory Commission and agreed on a revised structure for the provisions. The Tribunal also decided that its Rules should be user-friendly, efficient and cost-effective.

17. Work on the Rules has been undertaken in a Working Group of the Whole under the chairmanship of Judge Treves. The Working Group has used as the basis of its discussion, a set of revised draft Rules prepared by Judge Treves.

18. At the second and third sessions, the Tribunal devoted much of its time to the examination of the draft Rules. The Tribunal reached informal conclusions on the Rules dealing with the internal organization, and most of the provisions regarding the proceedings in disputes. The Tribunal intends to complete its work on the Rules at the fourth session planned for October 1997. The Rules will then be formally adopted.

19. To enable the Tribunal to deal with cases that may be brought to it in the meantime, it has decided to apply, on a provisional basis, the final draft Rules of the Tribunal prepared by the Preparatory Commission. The Tribunal is thus ready to deal with a case that may be submitted to it.

C. Constitution of chambers

20. The Tribunal constituted its Chamber of Summary Procedure at its first session. At the second session, the Tribunal constituted the Seabed Disputes Chamber, the Chamber for the Marine Environment and the Chamber for Fisheries Matters. All the chambers were constituted by consensus, on the proposal of the President following consultations carried out by him. In accordance with the Statute, the Seabed Disputes Chamber is constituted every three years while the other chambers are constituted annually.

1. Chamber of Summary Procedure

21. The Tribunal has constituted its Chamber of Summary Procedure in accordance with article 15, paragraph 3, of the Statute. The Chamber may hear and determine a case, at the request of the parties, by summary procedure. In addition, the Chamber can prescribe provisional measures in the exercise of the Tribunal's powers, if the Tribunal is not in session or a sufficient number of members is not available.[5]

22. The Chamber of Summary Procedure is composed of five members and two alternates. The President and the Vice-President of the Tribunal are ex officio members of the Chamber of Summary Procedure, the President of the Tribunal serving as President of the Chamber.

23. The composition of the Chamber, in order of precedence, is as follows:

President: Mensah

Judges: Wolfrum
Caminos
Park
Marsit

Alternates: Kolodkin
Nelson

2. Seabed Disputes Chamber

24. The Seabed Disputes Chamber is established in accordance with article 14 of the Statute. Its function is to deal with disputes arising out of the exploration and exploitation of the resources of the seabed and ocean floor beyond the limits of national jurisdiction as set out in Part XI of the Convention.

25. The Seabed Disputes Chamber consists of 11 Judges selected by the Members of the Tribunal from among themselves. As the Convention requires, the Judges of the Chamber have been selected in such a way as to ensure the representation of the principal legal systems of the world as well as equitable geographical distribution.

26. The members of the Chamber entered upon their duties forthwith and proceeded to elect the President from among their members. Judge Akl was elected President of the Chamber.

27. The composition of the Seabed Disputes Chamber, in order of precedence, is as follows:

President: Akl

Judges: Zhao
Marotta Rangel
Bamela Engo
Nelson
Chandrasekhara Rao
Anderson
Vukas
Warioba
Treves
Ndiaye

3. Chamber for Fisheries Disputes

28. The Chamber for Fisheries Disputes is established in accordance with article 15, paragraph 1, of the Statute. The Chamber is available to deal with disputes concerning the conservation and management of marine living resources which the parties may agree to submit to it.

29. The seven Judges of the Chamber entered upon their duties forthwith and proceeded to elect the President. Judge Caminos was elected President of the Chamber.

30. The composition of the Chamber for Fisheries Disputes, in order of precedence, is as follows:

President: Caminos

Judges: Yamamoto
Bamela Engo
Chandrasekhara Rao
Anderson
Laing
Eiriksson

4. Chamber for Marine Environment Disputes

31. The Chamber for Marine Environment Disputes is established in accordance with article 15, paragraph 1, of the Statute. The Chamber is available to deal with disputes relating to the protection and preservation of the marine environment which the parties may agree to submit to it.

32. The seven Judges of the Chamber entered upon their duties forthwith. Judge Wolfrum, Vice-President of the Tribunal, is ex officio President of the Chamber.

33. The composition of the Chamber for Marine Environment Disputes, in order of precedence, is as follows:

President: Wolfrum

Judges: Yankov
Yamamoto
Kolodkin
Park
Warioba
Marsit

D. Working groups and committees

34. During the first three sessions, the Tribunal entrusted the preliminary consideration of certain aspects of the work on organizational matters to ad hoc working groups. In addition to the working group of the whole on the Rules, the following working groups were established:

1. Budget and Financial Regulations, presided over by Judge Wolfrum;

2. Staff Regulations, presided over by Judge Chandrasekhara Rao;

3. Library Facilities and Publications, presided over by Judge Wolfrum.

35. At the end of the third session, formal committees were established to replace the ad hoc working groups.

1. Budget and Finance Committee

36. The Budget and Finance Committee was established to make proposals to the Tribunal on all aspects of the finances of the Tribunal. In particular, the Committee will be responsible for preparing draft proposals for the budget of the Tribunal, drafts of the Financial Regulations as well as recommendations on the financial organization of the Tribunal and the management of its finances and accounts, for consideration and decision by the Tribunal. The Committee will also examine the accounts and financial reports of the Tribunal and formulate reports and recommendations, as necessary.

2. Committee on Rules and Judicial Practice

37. The Committee on Rules and Judicial Practice will be required to keep under review the Rules of the Tribunal and their application, the Resolution on Internal Judicial Practice and the Guidelines, after they have been adopted by the Tribunal, and propose for the consideration of the Tribunal any modifications which it may consider necessary or appropriate.

3. Committee on Staff and Administration

38. The mandate of the Committee on Staff and Administration will be to make recommendations to the Tribunal on matters concerning the policies for the Administration and Staff of the Registry with special reference to the terms, conditions and procedures for recruitment, discipline and separation from the services of the Tribunal.

4. Committee on Library and Publications

39. The Committee on Library and Publications will be required to advise the Tribunal on the organization, requirements and functioning of the Tribunal's Library including, in particular, the policy and procedures for the acquisition of materials and support for the Library. The Committee will also recommend to the Tribunal arrangements for the publication programme of the Tribunal, with special regard to the nature and form of publications to be issued by the Tribunal.

E. Finances

1. Budget

40. Article 19 of the Statute states that the expenses shall be borne by the States Parties, the International Seabed Authority and other users of the Tribunal, including States that are not States Parties. The Meeting of States Parties decided to apply provisionally to States Parties the scale of assessments of the United Nations.[6]

41. The Judges examined the future budgetary requirements of the Tribunal. They reviewed the budgetary provisions provided by the States Parties for the organizational phase (August 1996 to December 1997) and identified important needs for which provision should be made in the next budget. The proposals for the budget for 1998 are being submitted to the Meeting of States Parties.

42. The matters of greatest concern to the Tribunal for the next financial year are the important professional support required in the legal, financial, budgetary, library and linguistic services with adequate support staff at the General Service level. Also of concern is the availability of a contingency fund to deal with cases being submitted to the Tribunal during the next budgetary period.

2. Library

43. The budget proposals include provisions for equipping the library of the Tribunal. Although both the General Assembly and the Preparatory Commission emphasized the need for an operational library for the Tribunal, no funds were allocated for a library in the budget for the organizational phase.[7] The absence of funds has made it impossible to establish a library adequate to meet the needs of the Tribunal and of those who will appear before it.[8]

3. Accounting and budgetary periods

44. The Tribunal proposes that its accounting year be the calendar year. It also recommends that its budgetary period should be two years.

4. Financial Regulations

45. Pending the adoption of its own regulations consistent with the Financial Regulations of the United Nations, the Tribunal applies, mutatis mutandis, the Financial Regulations of the United Nations.

F. Privileges and immunities

46. At the request of the Meeting of States Parties,[9] the Tribunal discussed the draft Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, prepared by the Preparatory Commission.[10] At its second session, the Tribunal, in response to the request, made recommendations on the draft Agreement to the Sixth Meeting of States Parties.[11] The work of the Tribunal on privileges and immunities was greatly assisted by a study prepared for it by Judge Joseph Akl, which served as the basis for the discussion of the subject.

47. The Judges also examined the final draft of the Headquarters Agreement,[12] which was approved by the Preparatory Commission and recommended to the Tribunal by the Meeting of States Parties as a basis for negotiating with the host country.[13] At the Tribunal's first session, the Judges authorized the President and the Registrar to negotiate the Headquarters Agreement with the German authorities on the basis of the draft Headquarters Agreement prepared by the Preparatory Committee. Following that decision, the President, the Vice-President and the Registrar held meetings with representatives of the Government of Germany in January, February and April.

48. Pending the conclusion of a Headquarters Agreement, the privileges and immunities of the Tribunal in the host country are provided by an interim ordinance adopted by the host country.[14] The interim arrangement applies to the Tribunal, among others, mutatis mutandis, the relevant articles of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947.

G. Relationship with the United Nations

1. Observer status with the General Assembly

49. On 17 December 1996, pursuant to the draft resolution coordinated by the Federal Republic of Germany and sponsored by 77 Member States, the Tribunal was invited to participate in the sessions and in the work of the General Assembly in the capacity of observer. Observer status enables the Tribunal to participate in the meetings of the General Assembly when matters of relevance to the Tribunal are being considered.[15]

2. Relationship Agreement with the United Nations

50. The States Parties to the Convention recommended that the Tribunal enter into a relationship agreement with the United Nations.[16] The Tribunal decided that the President and the Registrar should consult with the United Nations in order to agree on the terms for such an agreement. Following that decision, meetings have been held between the Tribunal and the Office of Legal Affairs of the United Nations. It is expected that a relationship agreement will soon be concluded between the Tribunal and the United Nations.

3. United Nations common system

51. The Tribunal has decided to apply, mutatis mutandis, the regulations and rules of the United Nations common system to the staff of the Registry.

4. United Nations Joint Staff Pension Fund

52. The Meeting of States Parties considered that the Tribunal was too small to run its own pension fund. For this reason the Meeting of States Parties recommended that the Tribunal should participate in the United Nations Joint Staff Pension Fund.[17] At its first session the Tribunal endorsed that recommendation and requested the Registrar to maintain the application by the Tribunal for the staff of the Registry to participate in the United Nations Joint Pension Staff Fund. This application was accepted by the Board of the Pension Fund and approved by the General Assembly. Pursuant to the decision of the United Nations General Assembly, membership became effective as from 1 January 1997.

H. Relationship with other organizations and bodies

53. The Meeting of States Parties also agreed that the Tribunal should consider a possible relationship agreement with the International Seabed Authority.[18] Consultations are in progress on the terms of such an agreement.

54. Arrangements of cooperation may also be entered into with other organizations and bodies.

VIII. PUBLIC INFORMATION

55. The Tribunal has given publicity to its work by means of press releases as well as addresses and publications of the Judges, and briefings by the Registry. The Tribunal also intends to issue a Yearbook which will provide general information concerning the Tribunal's organization, activities and administration.

56. The Tribunal has approved the design of its emblem and flag. The flag was first hoisted on 11 April 1997.

IX. INCOMPATIBLE ACTIVITIES

57. At its first session the Tribunal deliberated on the issue of incompatible activities and agreed on general guidelines to assist the Judges in determining which activities might be undertaken by them. Since then, all Judges have terminated functions or positions previously held by them in which they represented or acted on behalf of a Government or a State, or performed administrative functions not compatible with their membership of the Tribunal.

X. FUTURE WORK

58. To deal with urgent organizational tasks, the Tribunal plans to hold its fourth session in October 1997, if it is possible to do so within available resources and with the approval of the States Parties. The Tribunal believes that the session is necessary and that it would be appropriate to finance the session from the allocations approved for the organizational period.

59. The work programme of the Tribunal for 1998 envisages the holding of three sessions, each of four weeks' duration. This programme of meetings is needed for the work which must be completed by the end of 1998. The three sessions are considered essential whether or not any cases have to be dealt with in 1998.

60. The major tasks to be undertaken are the following:

1. The continued review of the Rules.

2. Adoption of the Resolution on the Internal Judicial Practice of the Tribunal, which is to set out in detail the practices to be followed by the Tribunal in the discharge of its judicial function.

3. Adoption of guidelines to assist States and other entities which may appear before the Tribunal.

4. Adoption of Instructions to the Registrar.

5. Adoption of the Staff Regulations.

6. Adoption of the Financial Regulations including provision for internal and external audit of the financial operations, prescribing appropriate procedures for the management of the finances and control of financial transactions of the Tribunal.

7. Consideration of agreements of cooperation with the United Nations, the International Seabed Authority and other international organizations or bodies.

61. Other matters which the Tribunal will consider include:

1. Annual report to the Meetings of States Parties.

2. Budget proposals of the Tribunal.

3. Recommendations of the Tribunal to the Meetings of States Parties on matters relating to the Tribunal on which the Meetings have the responsibility to take decisions or make determinations.

4. Publicizing the work of the Tribunal, including the issue of a Yearbook which will contain the texts of the principal documents and reports on its work.

XI. CONCLUSION

62. The Tribunal has largely completed the task of preparing itself for operation in the temporary accommodation at its seat. It has formed the Seabed Disputes Chamber and the Chamber of Summary Procedure. It has also created special chambers to deal with disputes on fisheries matters and disputes concerning the marine environment. Considerable progress has been made in establishing the procedures to be followed by the Tribunal and the chambers in the exercise of their judicial functions. There is available a complete set of rules which will be applied in any cases, and the definitive version of the Rules is expected to be adopted formally at the session planned for October 1997. The Tribunal has decided that its proceedings shall be conducted without unnecessary delay or expense to the parties or to the Tribunal.

63. The Tribunal and its chambers are thus ready to accept cases that may be submitted to it by States Parties and entities other than States Parties. A case may be brought before the Tribunal if the parties to a dispute have made declarations under article 287 of the Convention accepting the Tribunal as a means for the settlement of disputes. Such declarations may be made at the time of signature, ratification of, or accession to the Convention, or at any time thereafter. A declaration may also be made ad hoc for the purposes of a specific dispute.

Notes

[1] The elections were conducted in accordance with the procedures and terms as set out in document SPLOS/L.3/Rev.1. The elections were recorded in document SPLOS/14, paras. 13-31.

[2] SPLOS/4, para. 35.

[3] Article 1, para. 2, of the Statute.

[4] LOS/PCN/152, vol. I (LOS/PCN/SCN.4/WP.16/Add.1), p. 26.

[5] Statute, article 25, para. 2.

[6] SPLOS/WP.3/Rev.1, para. 34.

[7] See General Assembly resolution 49/28, para. 11, and LOS/PCN/L.115/Rev.1, para. 43 (d).

[8] Through the efforts of the Judges and the staff of the Registry, a number of books, periodicals and other material has been collected.

[9] SPLOS/14, para. 39.

[10] LOS/PCN/152, vol. I (LOS/PCN/SNC.4/WP.16/Add.3), p. 115.

[11] ITLOS/CRP.28.

[12] LOS/PCN/152, vol. I (LOS/PCN/SCN.4/WP.16/Add.2), p. 91.

[13] SPLOS/14, para. 33.

[14] German Ordinance on the Privileges and Immunities of the International Tribunal for the Law of the Sea of 10 October 1996.

[15] General Assembly resolution 51/204.

[16] SPLOS/14, para. 33.

[17] Ibid., para. 35.

[18] Ibid., para. 33.